

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of)	
)	
Streamlining Deployment of Small Cell)	WT Docket No. 16-421
Infrastructure by Improving Wireless Facilities)	
Siting Policies)	
)	
Mobilitie, LLC Petition for Declaratory Ruling)	

**REPLY COMMENTS OF THE
DUPAGE MAYORS AND MANAGERS CONFERENCE**

These Reply Comments are filed by the DuPage Mayors and Managers Conference (Conference) in response to the Public Notice, released December 22, 2016, in the above-entitled proceeding.

INTRODUCTION

The Conference is a coalition of 33 cities and villages in DuPage County representing over one million people. The Conference is a not-for-profit organization dedicated to addressing municipal public policy issues.

**LOCAL GOVERNMENT SITING PRACTICES DO NOT HINDER THE PROVISION
OF WIRELESS SERVICE**

Mobilitie's comments filed before the FCC claim that municipalities in Illinois and elsewhere have imposed obstacles that are "impeding investment in critical wireless infrastructure" and "frustrating deployment." Specifically, Mobilitie claims it has been "working furiously month after month to bring the benefits of broadband to communities across the nation, yet many jurisdictions have failed to act on our site applications, preventing us from investing in new infrastructure." Citing one example in Illinois, Mobilitie states that it "began negotiations with a locality eleven months ago but was unable to get responses for months and still has no agreement."

In fact, several of the Conference's member municipalities have reported facing delays created by Mobilitie. In one instance, the member municipality was approached by Mobilitie in the fall of 2015 about placing facilities on village light poles. The municipality agreed to discuss a possible master license agreement when Mobilitie was ready, however, Mobilitie did not contact the village again until April 2016. From June through November, the two parties discussed and exchanged language for a master license agreement but had trouble agreeing on language for monopolies that Mobilitie intended to place within the right-of-way. In November 2016, the municipality and Mobilitie reached an agreement, but Mobilitie changed its mind four days later,

pulling itself off of the municipality's agenda for consideration at a committee meeting. In early January 2017, the municipality re-sent its language to Mobilitie at the company's own request; however, the municipality has received no further communication from Mobilitie since that time.

In another member municipality, the village attorney met with a representative from Mobilitie on August 18, 2015 to explain that they would have to follow the village's usual procedure--obtain a master license agreement and get permits for each location. The village attorney provided a draft license agreement that same day. It was not until mid-November of 2015 that Mobilitie returned a redline version of the agreement. The village attorney returned comments 3 days later. On April 4, 2016, a contract specialist with Mobilitie contacted the village attorney to inform them that the company had restructured and had a new deployment strategy to install "transport" technology (large poles with microwaves and transmitters) rather than small cell facilities. Since that time, the village has been actively engaged with Mobilitie to attempt to develop an agreement.

In a third member municipality, Mobilitie applied for a building permit for a "new utility infrastructure facility" in the right-of-way on July 1, 2016. On August 11, 2016, the municipality's consultant sent review comments to the Mobilitie representative and requested additional information. At the time of this writing, Mobilitie has failed to resubmit plans, drawings, or additional information to the municipality or their consultant.

Mobilitie claims that municipalities "impose barriers and extremely long procedures that delay new service or deny it altogether." However, the three cases above show that municipalities are willing and eager to work with Mobilitie to develop agreements that satisfy both parties. In two of the cases, Mobilitie has failed to respond to requests for additional information or simply even follow up for periods of up to eight months so far. Mobilitie's comment mischaracterizes its actions and the actions of municipalities when discussing the length of time municipalities take to review siting. Mobilitie must recognize that this is a circumstance entirely within the control of the company making the application and Mobilitie itself was the primary cause of the delays it claims has affected its ability to deploy wireless infrastructure.

In addition, the Conference has received widespread reports from its municipal members that the applications submitted by Mobilitie have been, in general, incomplete and lacking the detailed information necessary for municipalities to proceed with the approval process. In the case of the third member municipality mentioned above, Mobilitie provided only basic diagrams and documents. As it is the municipality's public duty to preserve and protect the rights-of-way, the municipality requested additional information from Mobilitie, including a statement indicating compliance with zoning district regulations, state and federal regulations, building codes, safety standards, and applicable federal, state, and local laws; a statement indicating that Mobilitie will undertake best efforts to prevent frequencies transmitted from the proposed antennas from interfering with frequencies used by the municipal police, fire, or administrative personnel; detailed plans showing tower location information such as how far it is offset from the curb, building, or other physical feature; notes and details for the protection of existing trees and fire hydrants during construction; notes about traffic control measures to be implemented during construction, and a statement from a Structural Engineer attesting to the structural integrity of the proposed monopole tower.

This request for additional information may temporarily delay the application process, but only for so long as Mobilitie or another provider fails to provide the information. This information is vital to ensure the health, safety, and welfare of the public and to protect the integrity of neighborhoods. Many municipalities take great pains to beautify their communities—this may include installing certain light posts, landscaping, and/or undergrounding utility lines. This beautification is done for the betterment of communities and should not be threatened by private companies that want to place equipment on posts that may not support the weight, or to build 120 foot tall monopole towers that don't blend in with the community setting. Residents have expressed concerns that poles will be placed in the right-of-way in front of single family homes and these are concerns that municipalities strive to address with local regulations.

As the Conference noted in its original comments, local governments support the goals of improving technology and providing reliable cellular coverage throughout their communities. But local governments must also consider and protect the health, safety, and welfare of the public. If the ability of municipalities to regulate the location and installation of wireless facilities within their jurisdictions is limited, communities will face a threat to public safety.

ILLINOIS MUNICIPALITIES HAVE WORKED WITH REPRESENTATIVES OF THE WIRELESS INDUSTRY TO CREATE A MODEL SMALL CELL WIRELESS SITING ORDINANCE

Over the past several years, Illinois municipalities have been approached by wireless infrastructure companies, such as Mobilitie, with requests for permits to install poles in the public right-of-way. To aid municipalities and wireless infrastructure companies in negotiating terms that balance the protection of the public right-of-way with the needs to the wireless industry, the Conference partnered with the Illinois Municipal League and members of the wireless industry to develop a model Small Cell Antenna/Tower Right-of-Way Siting Ordinance. The model ordinance was developed in cooperation with representatives of the wireless industry to help facilitate the development of wireless infrastructure in Illinois while preserving municipal right-of-way, safety, and planning priorities.

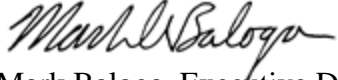
As the Conference noted in its original comments, municipalities are diverse and many Illinois municipalities have enacted or are in the process of enacting local ordinances and/or master license agreements to ensure efficient processing of wireless facilities requests. The Conference asks the Commission to give each municipality a chance to develop reasonable regulations that will ensure reliable cellular coverage and simultaneously protect their community's specific needs.

CONCLUSION

The Conference thanks the Commission for its efforts to better understand the work being done at the local government level to ensure safe and responsible deployment of wireless infrastructure, particularly those built in the public right-of-way. The Conference strongly urges the Commission to consider these reply comments, as well as those initial comments and replies submitted by communities across the country before taking any action that may adversely affect local governments' right-of-way authority and the health, safety, and welfare of citizens.

The Conference stands ready and willing to work with all interested stakeholders to develop reasonable regulations for the deployment of wireless infrastructure that also protects the health, safety, and welfare of citizens.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Mark Baloga". The signature is fluid and cursive, with the first name "Mark" and last name "Baloga" clearly distinguishable.

Mark Baloga, Executive Director

On behalf of the DuPage Mayors and Managers Conference

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